

DORSEY & WHITNEY LLP
Bruce R. Ewing
Amanda Prentice
51 West 52nd Street
New York, New York 10019
(212) 415-9200

Attorneys for Plaintiff Benson Mills, Inc.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BENSON MILLS, INC.,

Plaintiff,

v.

LINTEX LINENS, INC.

Defendant.

x

:

:

:

:

:

:

:

:

:

x

Case No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Benson Mills, Inc. ("Benson Mills"), by its attorneys, Dorsey & Whitney LLP, hereby files this action against Defendant Lintex Linens, Inc. ("Lintex"), and alleges as follows:

PARTIES

1. Plaintiff Benson Mills is a privately held corporation organized under the laws of the State of New York, with its principal place of business located at 140 58th Street, Building A Unit 7J, Brooklyn, New York. Benson Mills is the owner of copyrighted designs that are the subjects of this action.

2. Upon information and belief, defendant Lintex is a corporation organized under the laws of the State of New York, with its headquarters and principal place of business located at 295 Fifth Avenue, New York, New York.

JURISDICTION AND VENUE

3. This is a civil action seeking damages and injunctive relief for copyright infringement under the U.S. Copyright Act, 17 U.S.C. § 101 *et seq.*

4. This Court has subject matter jurisdiction over this matter pursuant to 17 U.S.C. § 101 *et seq.*, 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

5. This Court has personal jurisdiction over Lintex under CPLR 301 and 302 because, upon information and belief, Lintex is headquartered in the State of New York, regularly transacts business in this District, avails itself of the privileges and protections of the laws of the State of New York, has committed tortious conduct in this District causing injury in this District, and the acts of infringement complained of herein occurred in this District. Venue in this District is proper pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(a).

FACTUAL BACKGROUND

Benson Mills' Placemat Designs

6. Benson Mills is one of the leading suppliers of table linens and placemats in the United States. Since at least 2015, Benson Mills has sold pressed vinyl placemats entitled “Bunny” and “Easter Egg” on a seasonal basis.

7. The designs embodied in the “Bunny” and “Easter Egg” goods are original works that belong exclusively to Benson Mills and were developed by it after a significant expenditure of time and money.

8. These designs are so appealing to consumers that the goods sold by Benson Mills embodying these designs have achieved sales success and distribution in the United States. As a result, Lintex had access to these designs.

9. Benson Mills obtained a copyright registration in the “Bunny” design from the United States Copyright Office on May 4, 2017, Registration Number VA 2-043-398, a copy of which is attached hereto as Exhibit A.

10. Benson Mills obtained a copyright registration in the “Easter Egg” design from the United States Copyright Office on May 4, 2017, Registration Number VA 2-043-400, a copy of which is attached hereto as Exhibit B.

Lintex’s Infringing Products

11. Upon information and belief, Lintex has, without authorization from Benson Mills, sold placemats that are substantially similar to Benson Mills’ “Bunny” and “Easter Egg” designs. Attached hereto as Exhibit C are images showing a side-by-side comparison of Benson Mills’ copyrighted “Bunny” design (appearing in gold) and the design as used by Lintex in blue. Attached hereto as Exhibit D are images showing a side-by-side comparison of Benson Mills’ copyrighted “Easter Egg” design (on the left) and the design as used by Lintex (on the right). The Lintex goods depicted in Exhibits C and D hereto infringe Benson Mills’ copyrights under 17 U.S.C. § 501, the registrations for which are depicted in Exhibits A and B hereto, and have caused damage to Benson Mills.

12. Upon information and belief, Lintex has earned profits on its sales of the above-described infringing products.

13. Benson Mills has no adequate remedy at law.

COUNT I

INFRINGEMENT OF “BUNNY” COPYRIGHT

14. Benson Mills incorporates paragraphs 1 through 13 above as if fully set forth herein.

15. Benson Mills is, and at all relevant times has been, the owner of the exclusive rights under the United States Copyright Act in the “Bunny” copyrighted design identified in paragraph 9 and that is the subject of the registration attached hereto as Exhibit A.

16. Among the exclusive rights granted to Benson Mills under the Copyright Act is the exclusive right to use or to license the right to use the “Bunny” design to others.

17. Without Benson Mills’ authorization, upon information and belief, Lintex has created or had others create placemats whose designs are substantially similar to those of Benson Mills’ “Bunny” design, and it has sold such goods in its stores.

18. Upon information and belief, the foregoing acts of infringement have been willful and intentional, with wanton disregard and indifference to the rights of Benson Mills.

19. As a result of Lintex’s infringement of Benson Mills’ “Bunny” copyright and the exclusive rights embodied therein, Benson Mills is entitled to the recovery of its actual damages, together with an accounting of profits, pursuant to 17 U.S.C. § 504.

20. Lintex’s conduct is causing and, unless enjoined by this Court, will continue to cause Benson Mills irreparable injury that cannot be fully compensated or measured through an award of monetary damages. Benson Mills has no adequate remedy at law and is entitled to injunctive relief pursuant to 17 U.S.C. §§ 502 and 503 prohibiting Lintex from further infringing Benson Mills’ “Bunny” copyright and ordering Lintex to destroy all copies of placemats or other goods made in violation of Benson Mills’ copyright.

COUNT II

INFRINGEMENT OF “EASTER EGG” COPYRIGHT

21. Benson Mills incorporates paragraphs 1 through 20 above as if fully set forth herein.

22. Benson Mills is and at all relevant times has been the owner of the exclusive rights under the United States Copyright Act in the “Easter Egg” copyrighted design identified in paragraph 10 and that is the subject of the registration attached hereto as Exhibit B.

23. Among the exclusive rights granted to Benson Mills under the Copyright Act is the exclusive right to use or to license the right to use the “Easter Egg” design to others.

24. Without Benson Mills’ authorization, upon information and belief, Lintex has created or had others create placemats using designs substantially similar to those of Benson Mills’ “Easter Egg” design and sold such goods in its stores.

25. Upon information and belief, the foregoing acts of infringement have been willful and intentional, with wanton disregard and indifference to the rights of Benson Mills.

26. As a result of Lintex’s infringement of Benson Mills’ “Easter Egg” copyright and the exclusive rights embodied therein, Benson Mills is entitled to the recovery of its actual damages, together with an accounting of profits, pursuant to 17 U.S.C. § 504.

27. Lintex’s conduct is causing and, unless enjoined by this Court, will continue to cause Benson Mills irreparable injury that cannot be fully compensated or measured through an award of monetary damages. Benson Mills has no adequate remedy at law and is entitled to injunctive relief pursuant to 17 U.S.C. §§ 502 and 503 prohibiting Lintex from further infringing Benson Mills’ “Easter Egg” copyright and ordering Lintex to destroy all copies of placemats or other goods made in violation of Benson Mills’ copyright.

DEMAND FOR RELIEF

WHEREFORE, Benson Mills respectfully requests entry of a judgment granting relief against Lintex as follows:

1. Awarding Benson Mills actual damages for each infringement of its copyrights in such amount as may be found, as permitted by 17 U.S.C. § 504;

2. Ordering Lintex to make an accounting of, and imposing a constructive trust with respect to, Lintex's profits attributable to its infringements of Benson Mills' "Bunny" and "Easter Egg" copyrights under 17 U.S.C. § 504;
3. Preliminarily and permanently enjoining Lintex, its officers, subsidiaries, parents, divisions, agents, servants, employees and attorneys, and those persons in active concert or participation with them, or any of them, from continuing to infringe on Benson Mills' "Bunny" and "Easter Egg" copyrights, including, but not limited to, by selling the goods depicted in Exhibits C and D hereto;
4. Awarding Benson Mills prejudgment interest according to law; and
5. Granting Benson Mills such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMAND

Benson Mills hereby demands a trial by jury pursuant to Fed. R. Civ. P. 38.

Dated: August 30, 2017

Respectfully submitted,

By: 

Bruce R. Ewing
Amanda M. Prentice
DORSEY & WHITNEY LLP
51 West 52nd Street
New York, NY 10019-6119
Telephone: (212) 415-9200
Facsimile: (212) 953-7201
ewing.bruce@dorsey.com
prentice.amanda@dorsey.com

*Attorneys for Plaintiff
Benson Mills, Inc.*